

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MICKEY RANDLE,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ORDER

04-cr-188-bbc

16-cv-669-bbc

Petitioner Mickey Randle has moved for post conviction relief under 28 U.S.C. § 2255(f)(3), contending that he is entitled to a reduction in his sentence in light of Mathis v. United States, 136 S. Ct. 2243. His motion must be denied. This is not petitioner's first motion for post conviction relief. He filed an earlier one in 2007, which was denied.

Recently, petitioner asked a panel of the Court of Appeals for the Seventh Circuit to grant him certification for a second motion for post conviction relief, this time under Johnson v. United States, 135 S. Ct. 2551 (2015). The court of appeals denied the request, which means that petitioner was barred from filing a second motion for post conviction relief.

Now petitioner has filed a new motion for post conviction relief, this time under Mathis. However, he has not obtained certification for the filing from the court of appeals. His motion must be denied because this court has no authority to hear his case without the

necessary certification that the motion contains “newly discovered evidence that, if proven and viewed in light of the evidence as a whole would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense” or that the motion is based on “a new rule of constitutional law made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.” 28 U.S.C. § 2255(h).)

ORDER

IT IS ORDERED that petitioner Mickey Randle’s motion for post conviction relief under 28 U.S.C. § 2255 is DENIED because he has not obtained the necessary certification under 28 U.S.C. § 2255(h) by a panel of the Court of Appeals for the Seventh Circuit.

Entered this 6th day of October, 2016.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge